

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

_____	)	
	)	
UNITED STATES OF AMERICA	)	
	)	
v.	)	No. 16-cr-10094-LTS
	)	
ROSS MCLELLAN,	)	
Defendant	)	
	)	
_____	)	

**DEFENDANT ROSS MCLELLAN’S UNOPPOSED MOTION FOR ISSUANCE OF  
RULE 17(c) SUBPOENA *DUCES TECUM* RETURNABLE PRETRIAL**

Now comes the defendant, Ross McLellan, by and through undersigned counsel, and hereby respectfully moves this Honorable Court, pursuant to Fed. R. Crim. P. 17(c) and the Compulsory Process Clause of the Sixth Amendment, for the issuance of a subpoena *duces tecum* returnable pretrial directed to the State Street Corporation (hereinafter “State Street”) seeking the production of documents listed in Exhibit 1.<sup>1</sup>

**COMPLIANCE WITH LOCAL RULE 7.1(a)(2)**

Undersigned counsel conferred with counsel for the Government, AUSA William Johnston, who does not oppose the issuance of the requested subpoena. Undersigned counsel also conferred with counsel for State Street, who after reviewing and modifying Mr. McLellan’s initial request, agrees to produce, without objection, the information requested in Exhibit 1.<sup>2</sup>

<sup>1</sup> To avoid publicly identifying the U.S. Insurance Company, the defense redacted certain portions of the requested subpoena. An unredacted version of the subpoena will be forthwith provided to the Court.

<sup>2</sup> Mr. McLellan is seeking a similar agreement with counsel for the U.S. Insurance Company and anticipates filing an additional unopposed Rule 17(c) subpoena *duces tecum* request in the near

State Street will produce the requested documents on a rolling basis and anticipates that production will take approximately thirty days.

**THE DOCUMENTS SOUGHT ARE RELEVANT, EVIDENTIARY, AND  
MATERIAL TO MR. MCLELLAN'S DEFENSE**

The requested subpoena calls for the production of relevant and material information, including: (1) contractual agreements between two State Street subsidiaries and the U.S. Insurance Company concerning the U.S. Insurance Company transition; (2) relevant regulatory filings, including trade confirmations that were created and/or submitted by State Street to the U.S. Insurance Company pursuant to 17 CFR § 240.10b-10, and regulatory documents that were created and/or submitted pursuant to 17 CFR § 270.17e-1; (3) relevant transition management documents that were submitted by State Street to the U.S. Insurance Company; (4) communications between State Street and the U.S. Insurance Company relevant to the transition; (5) internal State Street communications relating to the transition; and (6) documents relating to State Street's discovery of the alleged overcharges and its October 25, 2017 self-disclosure to the United States Attorney's Office. The requested information is relevant and material to the recently added charge in Count 6 of the Superseding Indictment, and its procurement in advance of trial is necessary to secure a fair trial and to the preservation of Mr. McLellan's Sixth Amendment right to compulsory process for obtaining evidence in his favor. *See United States v. Nixon*, 418 U.S. 683, 701 (1974). Mr. McLellan has no alternative source for these documents, which are in the possession, custody, and control of State Street. This is a highly complex case, and, absent pretrial production, Mr. McLellan will be unable to integrate these materials into his defense in advance of trial. Finally, these requests are narrowly tailored to

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future.

target information that is relevant, material, and admissible. *See United States v. Nachamie*, 91 F. Supp. 2d 552, 564 (S.D.N.Y. 2000) (“Because the documents primarily seek business records, they are at this early stage likely to be admissible at trial.”).

**WHEREFORE**, Mr. McLellan respectfully requests that this Honorable Court issue the requested Rule 17(c) subpoena *duces tecum*.

Respectfully submitted,

Ross McLellan  
By his Attorney,

**/s/ Martin G. Weinberg**  
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Dated: March 15, 2018

**CERTIFICATE OF SERVICE**

I, Martin G. Weinberg, hereby certify that on this date, March 15, 2018, a copy of the foregoing documents has been served via Electronic Court Filing system on all registered participants.

**/s/ Martin G. Weinberg**  
Martin G. Weinberg